



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JUNE 10, 2008

PRESENT: Acevedo, Koepp-Baker, Davenport, Escobar, Lyle, Mueller, Tanda

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich,
Planning Manager (PM) Rowe, Senior Planner (SP) Linder,
and Minutes Clerk Johnson.

Chair Koepp-Baker called the meeting to order at 7:00 p.m., inviting all present to join in pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Koepp-Baker opened the floor to public comment for matters not appearing on the agenda; with none present indicating a wish to address the Commissioners, the public hearing was closed.

MINUTES:

MAY 13, 2008

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE MAY 13, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page 5, paragraph 7, 1st bullet {combine with 2nd bullet – for clarification) and add:

- ***regarding a*** time line for Church development and expansion (undecided ***at present*** as congregation wants to move forward with the school first (Commissioner Mueller explained that environmental review can not be completed incrementally; however, environmental assessment work on a project as presented can be reviewed ***and the project can move forward as amended***)

Page 6, paragraph 5: (add at end) ***[it was by*** staff observation]

Page 17, Paragraph 8: Chair Escobar suggested that if a Commissioner ***the Chair of the***

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Commission is 'termining-out' in July....

THE MOTION CARRIED (6-0-1-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: TANDA; ABSENT: NONE.

MAY 27, 2008

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE MAY 27, 2008 MINUTES WITH THE FOLLOWING REVISIONS:

Page, bottom paragraph 6: ~~sequential~~ *subsequent*

Page 10, bottom : building permit submittal ~~3/30/09~~ *1/30/09*

Page 12, paragraph 5, 1st bullet: ~~storage~~ *street*

Page 14, paragraph 3: Commissioner Acevedo ~~commented~~ *queried* if this was not affordable housing? SP Linder responded, "No."

Page 18, paragraph 2, line 4: ...~~downtown~~ allocations

Page 20, paragraph 2: I would like to see a one year. A lot of my thinking is the uncertainty: (revision follows)

if we have a fewer available in conditions of an unknown market, the better to wait. Also, we may be looking at changing zoning to increase density and refine housing types, but we must have a mechanism to ensure people that if they get allocations one year, they will continue to get them in successive years The fewer units allocated in an unknown housing market, the better. The City is looking at changing zoning codes for increased densities and also at refining housing types, and this again argues for a one year competition, with second year extension," Commissioner Lyle said.

Page 22, paragraph 4: Commissioner Lyle ~~10 not necessarily a guarantee if the developer received units from prior years, there is not an obligation~~ *10 is too few except for 2010-11 because everyone is so far behind now*

Page 24, paragraph 3, bullet 6: (add) *extra pollution* and *extra auto wear and tear*

Page 25, paragraph 2: {punctuation error corrected by adding period to end of sentence}

Page 25, bottom :AND INITIATE (add) *AN APPLICATION FOR A GENERAL...*

THE MOTION PASSED (6-0-1-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: ESCOBAR; ABSENT: NONE.

PUBLIC HEARINGS:

1) ELBA-08-05: DIANA-EAH A request for an exception to loss of building allocations for an 80-unit project to be constructed on a 3.6-acre site located on the north side of E. Dunne Ave., south of Diana Ave. adjacent to the east side of the railroad The extension request is for a 12-month extension of the FY 2008-09 building allocations.

SP Linder presented the staff report, calling attention to the background and case analysis for the 80 unit townhouse project. SP Linder noted this project had been agendized for last meeting (May 27, 2008) then continued due to the absence of the applicant. SP Linder went on to recommend approval of the applicant's 12 month extension request if the applicant agreed to adhere to a specific development schedule. The applicant, she said, is requesting the extension for 10 allocations awarded in 2008-09, with staff supporting the

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request if the applicant adheres to a definite processing schedule (dates listed on the second page of the staff report). SP Linder pointed out that if the applicant agrees, the development would still be on schedule for FY 2008-09. "The justification for the request is like others we've heard recently: down-turn of the market; lender's reluctance to place more dollars in the sinking market at this time.

Commissioner Escobar asked about the recommendation (page 2 of the staff report): whether both 1 and 2 must be completed? "For example, if item one is done, and two is not, what will happen?" Commissioner Escobar asked. SP Linder responded, "If the applicant does not reach step 2, he will not be in compliance."

SP Linder called attention to the revised resolution, which had been distributed at the meeting.

Chair Koepp-Baker opened the public hearing.

Felix Auteung, 2169 E. Francisco Blvd., Suite B; San Rafael, told the Commissioners he was working with South Valley Housing on the project. Commissioner Mueller asked if a developer was 'on board' yet? [no] Commissioner Mueller then asked, "What is the probability of meeting the deadlines as set?" Mr. Auteung said these were non-profit low and very low senior housing, and that he felt he could complete his portion of the project timely. He went on to speak of the previous project design and the difficulties incurred with that design. "Now we are working with a design so there will be more opportunity for South Valley Housing to have more units. We have the rough sketches from the architect and are pleased."

Commissioner Mueller cautioned with the identified timeline schedule, there will only be about six weeks to get the plans finished and submitted.

Mr. Auteung said that by October he will know if the project is a 'go or not' with a lot dependent on the Morgan Hill RDA and Business Assistance and Housing Services Director (BAHSD) Toy. He explained he had been talking with both the RDA and BAHSD. "But if they say 'no', then I'm out," Mr. Auteung said.

Commissioner Mueller cautioned that a decision must be made by August. Mr. Auteung said he understood and indicated he anticipated having information from the City by the 'end of month' so that he could continue working on the State sponsored grant. During discussion, it was ascertained that a half million dollars would be applied for from the State, and that currently the RDA monies were anticipated to be used as a type of leverage.

Commissioner Mueller commented to staff, "He is proposing a radical change to the project. Have you seen scoring to meet the original application?" SP Linder said the project had been scored and that staff has not seen higher density at this time. "We would have to go through the scoring exercise once the new design has been submitted," she said.

Commissioner Mueller expressed concerns of scoring for the application. SP Linder advised that the RDCS scoring must be from the (precise) site plan. "If we get that by August 1, we could work to the other commitments," she said. Discussion followed regarding the applicants pledge to meet the August 1 deadline with the precise site plan, with SP Linder noting the items needed for submittal and meeting the deadlines set by

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staff.

Commissioner Mueller reminded that the applicant says he was 'in until October'.

Chair Koepp-Baker asked if the applicant was committed to the components by dates [very soundly]

Commissioner Mueller observed that the application must be resubmitted for scoring and must demonstrate – in view of the radically changed design – that it can equal or exceed the previous scoring by August 1.

Chair Koepp-Baker asked when the speaker anticipated information being received from RDA? [BAHSD Toy is on vacation for two weeks; after that time period] Chair Koepp-Baker observed that it appears the project is dependent on RDA funding.

Commissioner Mueller said he had continuing concerns that the project might have issues that need to be resolved.

Commissioner Escobar stated, "I don't know what we may be getting on August 1. The applicant may not know what all he will have to do to be done. I feel concern if he can meet the October date."

Commissioner Mueller said to the applicant, "If we condition the project to come back with the status if the housing department doesn't participate, we will need to set a date of late July. Then we need to re-look at reallocation in July or August."

Mr. Auteung explained he did not know now what the exit strategy would be. Commissioner Mueller said, "The easiest way, you may want to have status check on August 1 to ascertain if the project is a go. If not, then it comes back to the planning Commission."

Commissioner Escobar suggested having staff agendaize the matter for the first Commission meeting in August.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER MUELLER OFFERED THE (MODIFIED) RESOLUTION RECOMMENDING APPROVAL OF A ONE-YEAR EXTENSION OF TIME FOR THE 10 FY 2008-2009 RESIDENTIAL BUILDING ALLOTMENTS FOR APPLICATION MC 05-08: DIANA-EAH, AND ADDING TO SECTION 4:

a request for a status check of funding commitments by August 1, 2008 or have the allocations be rescheduled to other projects.

COMMISSIONER ESCOBAR SECONDED THE MOTION WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

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2) ZA-08-11: CITY OF MORGAN HILL- CHANGES TO THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM STANDARDS & CRITERIA

A request to amend Chapter 18.78 of the Morgan Hill Municipal Code, amending the evaluation standards and criteria for proposed residential developments as set forth in Sections 18.78.180 through 18.78.410 of the Municipal Code.

PM Rowe presented the staff report, giving the background information of the Planning Commission subcommittee and working group which had been appointed to review and consider proposed changes to the Residential Development Control System (RDCS) standards and criteria for the upcoming competition. PM Rowe noted the work of the subcommittee had included issues of:

- filing fees for micro projects {to be further addressed by the Planning Department and Finance Department work plan}; Commissioner Tanda said he hoped it could be completed before the next competition; CDD Molloy Previsich advised it would be 'possible or at least close' as the process is intended to start on July 2, 2008
- addressing the proposed 'streamlining' reduction of the numbers of categories scored]which had proved unwieldy (page 53; Section 18.78.370); PM Rowe noted that in the evaluation process, a recommendation to remove Open Space and Schools criteria had been studied, as well as adding Natural and Environmental and Livable Communities categories scoring / decision making process when a tie is present following staff scoring
- letter from Mayor Tate (May 20, 2008) regarding matters pertaining to RDCS/ below market rate program revisions with recommendations from the Community & Economic Development Committee (April 23, 2008, City Council meeting)
- pricing strategies
- responding to questions, PM Rowe explained the process of dividing tasks for applications review, with staff intending to reevaluate the current process

Having heard the staff report, Commissioners made statements, raised concerns/issues: Commissioner Lyle should revisit schools and open space for continued inclusion to the micro project scoring; categories offer some easy point to get (fees and walking) thereby increase 'default points'

evaluation process for micro: 'mixed emotions' re: scoring as described (more complicated and more costly); suggested if tie for projects, Planning Commissioners

rank* for tiebreaker {process faster and less complex}

*this notion resulted in considerable discussion:

- currently, if rescoring must occur following a report from staff, the applicants may be put in a difficult position of having to commit to extra amenities
- potential for developers to 'buy-in' ..., discussed during public hearing

Chair Koepp-Baker opened the public hearing.

Adel M Botros, 16675 Nina Ln., told the Commissioners he had lived in Morgan Hill 15 years. "I came for a micro project which I am just now doing," Mr. Botros said. He recapped his memory of the last year few allocations, including (his) disapproval of allocations set aside for the downtown which did not get done. "I'm asking for equal opportunities for everyone to go for something and finish it. I don't know why micro projects are treated differently. I need help - tell me what's going on and can we increase

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the micro allotments?"

PM Rowe advised this matter regarding the total building allotment and distribution in differing set-aside categories; including the set-aside for the next micro project competition was heard by the Commissioners on May 27, 2008 and subsequently sent to the City Council at their June 18 meeting. PM Rowe and Chair Koepp-Baker advised Mr. Botros of the availability of minutes from the May 27th Planning Commission meeting, and further pointed to the ability to attend the City Council meeting and have a say on the issue at that time.

Bill McClintock, MH Engineering, 16075 Vineyard Blvd., recalled to the Commissioners he is generally involved with quite a few of micro projects. "If there are ties in the scoring," Mr. McClintock said, "I would like to see all ties go on to a final. One solution would be to split those that are in the ties, with those going on with partial allocations being given some kind of priority. The micros are supposed to be streamlined and I agree that it is not necessary to spend lot of time on possible tie breakers. Also, I don't know why - for the micros - we have to fill out the applications in non-scoring categories. Staff did not review all criteria on applications when came down to finals."

Commissioner Escobar clarified that Mr. McClintock did support a ranking score process.

Commissioner Mueller said, "What we are talking about is a process where developers and applicants would be agreeable to drop scoring of other criteria."

Mr. McClintock commented, "If there is a tie, with so few allocations, I think splitting them is hard when there are so few allocations already." He went on to say, "'I'm an advocate of every other year having a micro competition, and then next year an open market competition. I understand the criteria for competitions every other year."

Commissioner Mueller addressed the issue of where the development community might be against doing ranked scoring for criterion. He also explained that the Livable Communities category is where the Commissioners (one) discretionary vote has been placed.

Regarding the potential for ranking, PM Rowe suggested a 'possible blind report' from staff where the evaluation scoring is not revealed at the time the discretionary point is considered by the Commission.

Commissioner Davenport asked Mr. McClintock to comment on the fee schedule. Mr. McClintock responded by telling the amounts of the fees in the various application schedules. Mr. McClintock then suggested lowering the prescreening (preliminary review) fee and giving partial credit on the regular application fee to those projects with the prescreening conference(s) process in place. He noted that with the applications undergoing the prescreening conference generally offer a superior product.

Commissioner Escobar observed that he assumed when the staff commenced the fee schedule study, they would solicit developer input? [yes]

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Commissioner Lyle asked Mr. McClintock if he was satisfied with reinstituting the two categories (open space and schools) and open space, as well as utilizing the categories of Natural and Environmental, and Livable Communities. "Open Space seems to be biggest variable of the criteria," Mr. McClintock said. "It also appears to be one of the bigger variants in the micros. With Livable Communities, we get near the top score consistently. In Natural and Environmental, there is the opportunity for points with a bigger landscape. Some criteria just work against logic."

With no others present indicating a wish to speak to the matter, the public hearing was closed.

PM Rowe suggested that since the Commissioners' one point is the Livable Communities category that would be retained even if the process was modified for determining award in the event of a tie score, the use of blind scores would benefit streamlining the process.

Commissioner Mueller noted it might be necessary to change the Code as the tie breaker process is described in current Code.

Commissioner Lyle observed that a tie breaker mechanism would not be needed nor utilized until after the Council had finished scoring.

Discussion ensued regarding the potential for a tie-breaking process, and how to best set that process into place. Commissioner Lyle urged against the use of (staff) blind scoring, then if a tiebreaker is needed, the Commissioners could rank score the applications. PM Rowe called attention to language on page 54 of Exhibit A, and advising further changes would be necessary to set ranking.

Commissioner Escobar clarified that ranking would only affect those applications that are tied and that Commissioner ranking would be the tie breaker.

Commissioner Mueller said, "What would happen: the Planning Commission point must be decided and scored. Staff could tell us if there was a tie and then Planning Commission would rank all the applications. If the scoring was not appealed, the allocations could be awarded and the Commissioners could still split allocations."

PM Rowe commented on the need for further text amendments.

Commissioner Tanda asked questions of having a top scoring application, with other applications tied. Commissioner Mueller reminded that there were only six allocations in the Micro competition, 'so probably only the top two applications would get allocations'.

Commissioner Mueller led discussion regarding the idea of 'application cost benefit if a project participated in the prescreening - and suggested giving benefit to those applications.

Commissioners discussed the merits of fourteen versus eight categories, with Commissioner Mueller stating, "Bill (McClintock) may be right: we might want to add a category and Open Space is one place where even a micro can see a difference so there could be benefit to leaving in Open space.

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Commissioner Davenport responded, "I'm not in agreement. When we're talking about micros, and that 3 - 6 houses, I'm not convinced of an impact of significance."

Commissioner Mueller pointed out it is based on how the developer makes use of Open Space."

Commissioner Davenport remained unconvinced of the significant of impact if the point would be added back in.

Commissioner Tanda asked about adjusting the minimum score. [Not possible; it was written into the initiative]

Commissioners were polled regarding retaining/returning categories: {in favor} Mueller, Escobar, Acevedo (not in favor of open space but ok to change); Koepp-Baker; having reached the majority, polling was discontinued.

The fee schedule was discussed briefly.

PM Rowe again spoke to the subcommittee work plan items regarding changes to the evaluation categories, noting that safe walking route page 2 Exhibit A under the Schools category dealt with the first issue. Commissioner Tanda presented information regarding pedestrian cross walks <marked or unmarked> at intersections. PM Rowe noted that crosswalks give pedestrians a false sense of security and safety.

Public facilities: PM Rowe provided clarification that the scoring methodology in present practice is the preferred methodology (award the one point when a project connects to an existing storm drain in the street) and no change was recommended.

Regarding Schools, Commissioner Lyle led discussion on the criteria (page 2, Exhibit A) in an attempt to clarify granting of points in that category. To award points for a safe walking route, the improvements must be in place when the project is ready to build or the safe walking route improvements (sidewalks, pave pedestrian paths, etc.) will be completed by the project.

Housing needs changes to B2 were announced regarding affordable housing numbers and non deed restriction. PM Rowe advised the direction given to the subcommittee by the City Council. He went on to explain that the subcommittee recommends keeping the 5 percent low income BMR requirement and up to 5 percent of the units as median income affordable BMR units. Incentives for up to 20 percent secondary dwellings are being counted as affordable and this is way to increase those numbers, he said.

Commissioner Escobar asked if the current number of moderates can meet the 2014 requirement? PM Rowe responded, "When we reevaluate to see if we are on line to meet our objectives, we can tell." He reminded that monitoring of the sales price was continually on-going (annually). "When the next RDCS survey is completed, we will be able to ascertain what units have sold." Commissioner Escobar asked if the secondary dwelling units are way to meet the BMR commitments? PM Rowe replied, "Staff and City Council take the position it meets the intent for achievement of our Regional Housing Needs Allocation (RHNA) on a technical basis."

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Considerable discussion followed regarding (table / page 21; exhibit A) median /moderate units. It was noted:

- variable pricing of units up to 120% of identified income level is moderate while median can be 100% dependent on size of lots
- trying to address concerns of 'fit in neighborhood' for community
- moderate can be BMRs
- BMRs will be deed restricted
- differences of information presented in tables on pages 21 and 27 (modification of the table on page 27 was subsequently completed)
 - Provides for affordable units LOW / Median/MOD
 - >>-1:5 4-0 (retain with explanatory footnote to be added by staff clarifying that moderate applies to only lot size above 12,000 sf

Commissioner Lyle expressed concern: by added into housing needs secondary dwellings as directed by City Council (which he indicated thinking was a good thing), the size of percentage increase would necessitate having to fix the Code or reduce the percentage. "If we go to 20% in some neighborhoods, it changes the character and creates parking problems," Commissioner Lyle said, giving his neighborhood as example: 10,000 sf lots, 3 garages, and collections of 'stuff causing a reduction of garage space and 'crud' accumulates in the gutters (because of all the on-street parking). "Are we asking for so much that no one could do what we are asking? I don't think they could sell 15 - 20% of the units with the increase."

Responding to a request, Chair Koepp-Baker reopened the public hearing.

Don Lapidus, 991 Lorana Ct., Mt. View, referencing the table on page 27, Exhibit A, asked, as a point of interest why an applicant would ever get 10% for low when 2% low and 8% median were better. Commissioner Mueller directed attention to the table on page 21 for clarification.

The public hearing was closed.

PM Rowe spoke to the Quality of Construction category, noting the emphasis on green building practices (using the Build it Green {BIG} checklist). He went on to explain the table on page 31 where the points system for the category was listed, and indicated the link to the City's web site for the BIG checklist and scoring. PM Rowe noted that the checklist will be in effect at the time of the final filing date and was the 'bar' currently set. "That bar may be subsequently raised but this is the effect for beginning," he said. PM Rowe also called attention to the requirements (page 31) for the logo use agreement.

Chair Koepp-Baker, a member of the RDCS subcommittee, announced the subcommittee had spent time looking at how to incorporate new energy use standards into the scoring criteria. She commended staff, especially Rebecca Fotu with Environmental Programs, for work done on the issue. Commissioner Davenport agreed saying, "I think the direction the City is going in will be exemplary and a model for others."

Other categorical changes included:

Lot Layout (pages 34 and 35) BIG added

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Safety and Security minor change for item 4 [plus 3 points] (page 42) strike reference; reads as current; Commissioner Escobar asked if this change was simply to allow fire department to increase the points or reevaluate? "What are the limitations?" he asked. PM

Rowe responded item now reads the according to Code. Commissioner Mueller said the County's Fire Code for sprinklers helps clarify this.

Parks and Paths: continue through scoring process for better definition; changes were made a year ago and applied to the micro competition this year; the committee has indicated that until funding for park maintenance issues are addressed, no changes should be made at this time.

Commissioner Lyle commented that the City Council had indicated interest in reducing water usage and he felt an opportunity existed in Paths and Parkways "We need to look at a plan for next year," Commissioner Lyle said. Commissioner Mueller noted he had occasion to view new artificial turf recently, and said "It looks nice," He suggested the turf issue be revisited in the future and went on to tell of the virtues of the new artificial turf. Chair Koepp-Baker said the matter of artificial turf had been discussed with the evaluation committee met with ARB.

Natural and Environmental category (page 46 - 47) amendments noted and agreed upon: criterion B 1 a (fill required on site)

B 1 d 2 points,, alternative energy source

remove recycling criteria

B5 (page 47) green building concepts now in Build It Green (BIG)

3iii (page 47) all homes pre wired (Commissioner Davenport/high interest)

Livable Communities (page 50 - 51) modifications noted and agreed upon

Commissioner Lyle introduced potential criteria not on the list under Open Space but being discussed: Ag Mitigation Program, asking if a developer would be required to pay both TDC and ag mitigation fees or if some alternatives could be put into Open Space Following discussion, the Commissioners agreed to take a 'wait and see stance' regarding the matter, depending on action by the City in the South East Quadrant (SEQ).

Chair Koepp-Baker opened, and then closed the public hearing as there were none present indicating a wish to speak to the matter.

Commissioner Mueller asked to have the public hearing reopened. Commissioner Mueller asked Mr. Lapidus to return to the podium as he was under the impression that developer Scott Schilling was concerned about a fee schedule and had asked Mr. Lapidus to comment on that issue. Mr. Lapidus disavowed knowledge of a particular issue, but said the current set of fees is tough for developers this year and thought the development community would like it if the fees could be relaxed this year. Commissioner Mueller said he would check with Mr. Schilling regarding the matter. PM Rowe advised that staff will study the fee schedule in their work plan. "It is important to quantify the cost for BIG," he said. "Staff would not recommend adjustment of fees at this time."

The public hearing was closed.

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Commissioners then undertook discussion of specific item(s) within the criteria list: square footage requirements and the impact on meeting regional housing needs requirements which have put into place a dramatic shift from previously affordable units with dramatic increased. Commissioner Lyle wondered if the City has the capability of meeting numbers, but said downtown will help to meet the needs. Commissioner Mueller commented that currently granny units are less than 300 sf (and represent low or very low income affordable) with those units being harder to produce numbers than otherwise.

Commissioner Lyle asked if the development community will continue to support 20% granny units for this category. In that case, Commissioner Lyle said, in an R-1 7,000 sf neighborhood every sixth house can have a granny unit. Chair Koepp-Baker indicated thinking second stories will be over garages, and meet the intent. PM Rowe advised that the City Council - in their instructions to the Commission - asks for more secondary units.

COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF AN AMENDMENT TO CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE AMENDING ARTICLE II OF THE STANDARDS AND CRITERIA AND PROCEDURES AND ARTICLE III, MICRO COMPETITION PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND WITH THE FOLLOWING MODIFICATIONS:

Article III, Micro competition: page 54 remove rescoring of project when initial scoring is tie; (add) *Planning Commission will rank the highest-scoring tied projects to be the tie-breaker*

Article II (add page 27) ~~Open Space~~ HOUSING TYPES [with corrections to table]

~~Provides for 10% affordable units LOW / Median/MOD~~

~~~1.5 10 (retain with explanatory footnote to be added~~

~~by staff~~

~~clarifying that moderate applies to only lot size above~~

~~12,000 sf (emphasis) BMRs are deed restricted~~

~~~ "re-include" the 10% low option, with the award to be 2 points~~

COMMISSIONER ESCOBAR MADE THE SECOND TO THE MOTION.

Under discussion, Commissioner Tanda asked to have language added indicating there would still some adjustment in the fee schedule by staff by a calendar date-certain. Commissioner Mueller said he agreed in principle, but said the issue should be raised in a separate motion.

Commissioner Tanda then asked if the motion would have all the changes identified - but perhaps not discussed - going forward to the City Council? [yes]

THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

COMMISSIONERS MUELLER/TANDA OFFERED A MOTION RECOMMENDING TO THE MORGAN HILL CITY COUNCIL TO URGE

DEVELOPERS TO USE PRESCREENING OF APPLICATIONS FOR THE RDCS COMPETITION, WITH A RESULTANT REDUCED FEE, THE OFFSET BEING BASED ON COST RECOVERY TO EVALUATE PROJECTS IN THE REGULAR COMPETITION.

During discussion Commissioner Tanda said he had misunderstood the motion, having given his own consideration to reduction of fees for the micro competition.

COMMISSIONER TANDA THEN INTRODUCED THE INTENT OF INSTITUTING A REDUCED FEE SCHEDULE PRIOR TO THE NEXT RDCS MICRO COMPETITION AS AN AMENDMENT TO THE MOTION, WHICH COMMISSIONER MUELLER ACCEPTED. THE MOTION PASSED (7-0) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

**3) POLICY
DIRECTION
REGARDING
DEFINITION OF
SENIOR
HOUSING
TYPES,
STANDARDS
AND
APPLICABILITY
OF THE
RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCS)**

Consideration and discussion of various senior housing types and the need to clarify RDCS applicability. Also, consideration of new zoning definitions for the various types of senior accommodations and direction on the appropriate locations for the various types of senior housing.

SP Linder gave the staff report, indicating that many senior housing proposals have been viewed during past year. Currently, she said, the City has two working senior housing definitions, so adoption of new definitions is a priority. SP Linder went on to detail the methodology used:

CA Health and Safety Codes (definition for Congregate Senior Care and Assisted Living

- obtained definitions from other areas
- developed definitions for ‘in between’ care, including ‘kitchens’ policy
- widened recommendations (page 3/ staff report) for Congregate Care for the Elderly/Assisted Living Facility
 - Special Residential Care Facilities
 - Large Group Homes
- completed table (page 4/staff report) to illustrate various categories of care and zoning uses within the City
- project examples (page 5/staff report) currently under consideration
- contemplation of how new definitions and zoning would fit into RDCS

SP Linder presented an overview of the four senior housing projects currently being proposed in Morgan Hill. Discussion followed, much of which was centered on the definition of ‘half kitchens’, and what equipment/configuration might be expected within those.

“The need for senior housing will not go away,” SP Linder said. “Staff has been trying to look at alternatives as some of the projects want combinations of assisted and independent living. As we considered the different aspects of housing together with new definitions, it became apparent that exempting a percentage of units from RDCS might be necessary so the projects could provide all stages of care.” Some of the factors considered by staff for Commission discussion include possible separate set-asides for seniors, she said, calling attention to the table on page 10/staff report which graphically depicts various levels of service (indicative of the biggest difference of care) and how the {proposed} applications

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fit into the categories. "Staff has been trying to address scenarios for alternatives considering there are not a lot of R-4 sites in the community," SP Linder said. "Something that could be looked at is the potential for additional high density development sites.

Commissioner Escobar referenced the several instances in the staff report where variations of age were noted. Discussion ensued regarding age notification for senior units:

- ⇒ Morgan Hill: set at 62
- ⇒ CA codes: 60
- ⇒ other senior housing within Santa Clara County: 55

By consensus, the Commissioners agreed that the base number age should be 55.

Other issues discussed included:

- concerns of conditional use permit revocation / what do with failed business
- CUP provides ability to concentrate on location
- assisted living those types of facilities more active
- need to concentrate facilities in mixed use and residential zonings, not industrial
- unease with definition limitations regarding need for seniors needing mental and emotional assistance
- items listed for half kitchen; location/configuration of those items
- need for identify individual space laundry facilities

Chair Koepp-Baker opened the public hearing.

Mark Lowen, Curry Architecture LLL, 471 High St. SE, Salem, OR told the Commissioners he was present to represent Colson & Colson assisted living facility proposal. "This is new application history where we will be pioneering congregate care in Morgan Hill. We are engaging Holiday management, which has 350 facilities in the nation, to focus on independent living on at the site at Barrett and Butterfield. This will provide an opportunity for seniors:

- no cooking, cleaning, or driving (statistically, 15% of seniors the age served own cars but do not use)
- not licensed medically/ dementia requires a much higher level of care
- seniors will have independent living on their own

Mr. Lowen acknowledged one concern: in the Holiday management model, there will be two managers on site, with complete apartments providing opportunity to step away from work so two kitchens will be complete as compensation for the managers and not rented out to general public {would like language /variation to RDCS). "As to zoning," Mr. Lowen said, "Butterfield/Barrett is now zoned light industrial with the other side residential. In some cases these facilities act as a buffer so they are located in a residential area, this becomes the buffer to other uses; we've seen it over and over again."

Mr. Lowen said, based on the initial discussion at this meeting, he would support the presented definitions with some tweaking, e.g., refrigerator locations and sizes. Responding to a question, Mr. Lowen said the company's leases are written for persons age 55(+) but are willing to work with local jurisdictions if variations of age are noted. "Our typical resident is age 78 - 82 and continue to be ambulatory. That is the way the facility is designed and managed. When the resident is no longer able to live independently, we can assist with a move to another facility," he said.

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Commissioner Escobar observed that such small bracket of age range (78 – 82) codified the facility to a small range of activity causing concern of focusing too tightly on age and indicating that a wider variety gives better quality of life but may be more homogeneous if a larger age range would be the focus Mr. Lowen responded, “It is not uncommon for an age grouping to occur as studies have shown that people prefer to live with their own contemporaries and generally come within 10 miles of the initial residence.”

CDD Molloy Previsich asked about the number of managers per facility. Mr. Lowen said that the Morgan Hill facility will house 136 residents and have two managers. He also advised that the average number of residents per facility is 115. “With this facility here, the model of a manager and co-manager will be most cost effective as we look at the size for a sense of community in placing a trained team for management,” Mr. Lowen explained. Commissioner Lyle asked if the co/Manager units would be within the building? [Yes, and square footage of the units would be variable]

Dennis Kennedy, 1942 Alta Mesa Ct., advised he is assisting those engaged in the Colson/Royal Oaks project “work through the process. Mr. Kennedy told of meeting with the Senior Advisory Committee and that a ‘desperate need’ exists in Morgan Hill for this type of project. “The definitions presented fit for this project and we are supportive of language and request positive action for the definition and zoning actions,” Mr. Kennedy said.

Commissioner Mueller asked about an adjacent parcel of land which was not part of the original application. Bob Dwyer, 19157 Calle Mandiz, said that ‘sliver’ is a property remainder property and is not for sale. “The owner was a ‘hold out’ during the purchases for the Butterfield extension and asked for an exorbitant price which the City would not pay,” Mr. Dwyer said. “Now, the Colson people have tried to buy it, but he still won’t sell.” He went on to tell of an easement which the Colson representatives had placed to the remainder property.

Myron Crawford, 10030 Bandlely Dr., Cupertino, was present to represent project from Berg & Berg. Mr. Crawford read a letter, which he also distributed to the Commissioners, delineating the opposition to the changes outlined in the staff report. Commissioner Lyle asked Mr. Crawford - when the Berg & Berg representatives had discussion with City staff – was a definite site discussed. [Yes]

Commissioner Acevedo asked if these are designed to be ‘for sale’ units. Mr. Crawford said, “They can be both rentals and for sale.” Mr. Crawford said that for the small lots rentals would be possible and then indicated that Berg has a history with being rental property management agents.

Chair Koepp-Baker asked Mr. Crawford about the intent to provide ‘less than full kitchens’ for the units. Mr. Crawford described the private restaurant within the development which will contain a kitchen on site and residents required to patronize that restaurant.

John Alstrom, 320 Commerce, #100; Irvine, told the Commissioners he is Vice President of Fountain Glen, which has proposed the Altera project. Mr. Alstrom said the property (20 acres) for the project is under contract and has zoning for mixed use. Mr. Alstrom said the plan is for a Montessori school, senior apartments, and retail mixed use. “We’re happy that

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Staff is talking about senior housing,” Mr. Alstrom said. “Our problem is that our project doesn’t fit into the categories defined. The service Altera plans to provide is for an adult community, with the average age being 70 years. We know that residents age 85+ can be candidates for assisted living. We will be marketing to senior housing.

Not everyone wants to go to into assisted living nor in a multifamily complex but are looking for product where they can rent luxury upscale apartments. We go for upper level of open market development, but will consider affordable housing when we required to do so. The Altera plan is like a normal apartment building with a larger recreation building. We are concerned about having a reduced (half) kitchen in the units. We feel our concept does not fit into categories listed and we encourage staff and the City to think how to service active adults who like to ‘lock and leave.’ We believe we have introduced a great concept with the 20 acres providing connectivity between uses for the City.” He went on to explain that the target for residents will show that some do drive with about 15% no longer owning cars. Mr. Alstrom said the facility will provide laundry and vehicle services, and that there is a plan to have an on-site manager at the site permanently.

Responding to a question from Commissioner Escobar, SP Linder said this project would be required to be in the RDCS competition.

Commissioners asked questions of Mr. Alstrom:

- ~ if the development could contain age-restricted market-rate apartments [might have a total of 200 units; from a operational standpoint 150 – 250 units is optimal]
- ~ plans for aggregate of services [Montessori school, assisted living, retail, offices]

CDD Molloy Previsich advised that it would be important to recall that assisted living and perhaps other categories need to be better defined.

Commissioner Escobar asked Mr. Crawford if the on-site restaurant would be open to the public? “Yes,” Mr. Crawford replied, “and so management must be responsive to quality and pricing issues.”

Gary Hansen, 1650m Technology Dr., told the Commissioners he is also associated with the Altera project. Referencing the matrix on page 10/staff report, Mr. Hansen suggested the addition of other amenities, and adding: the City may want to seriously consider a third category of independent/active living for those who are active in the community but don’t want responsibility of home up-keep. They want to travel but not maintain a residence. “In four years 22% of the population will be over 65, and that will be important in planning for the third category of independent/active adult community living. We anticipate putting kitchens in our apartment are as we are planning for a full project and we ask for flexibility for kitchen design as the residents will not want hotplates nor will the City. There are a lot of things to be looked at that are practical solutions. Residents want the comforts of an active adult community and we are not creating a program but creating a village.”

With no others present to address the matter, the public hearing was closed.

Commissioner Acevedo said, “How does staff want to apply the definitions? It seems that these are similar to extended stay hotels (comparables in table 10/staff report). I think we

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might use overlays rather than the RDCS system and then decide if want these in these locations. It seems that since these are basically different we could apply the overlay as a 'best rater' rather than using generic definitions."

Chair Koepp-Baker called attention to the definition for 'half kitchen' and asked, "What drives the half kitchen?" SP Linder explained there appears to be an attempt to try to excuse the applications from RDCS by not calling them kitchens.

Commissioner Tanda observed: "There is a lot to cover here, but the key is exemption to RDCS." He said that as far as true assisted living the application presented for the Colson project seemed most logical.

SP Linder reminded that there was no action need tonight, but if the Commissioners wanted a different Resolution, it would be presented at a later meeting. CDD Molloy Previsich added, "We are trying to get this issue clarified for upcoming competitions." She also noted the need for recommendation to the City Council.

Commissioners discussed:

Davenport if there is intent on concentrating on individual units with restriction on age, should that be exempted from RDCS

Mueller make it clear that these applications and possible resultant projects will not be exempt from the City's population cap. "We can't do that; it takes a vote of the people to do that. They are asking for allocations."

Davenport appears to be a dangerous precedent using a small refrigerator (part of the half kitchen) then give an exempt *classification*. "I'm against that," he said.

Mueller seems a couple of these are trying to do something on the basis service provision: *Altera* will provide market rate rentals with kitchens; it might be possible to carve out some number of units for set-aside

Berg close to same thing; if tweak kitchen, but not exempt from RDCS

Concern of these two projects: trying to use definition of half kitchen to avoid RDCS competition "If we are to have senior housing in Morgan Hill, it might be best to carve out allocations for set-aside," he said.

Davenport had been given the feeling that family can't live in the community and he wants to make that happen

Mueller Colson and Royal Oaks are common properties with a common kitchen and therefore are 'clean' as exempt from RDCS allocations; not clear how others can be exempted but might be possible candidates for dedicated set-asides

Lyle tells history of 1st ballot measure which had made exemptions; voiced concerns about accepting definition of 'half kitchen' then have to have reconsideration because list of appliances within

Considerable discussion ensued regarding the 'pros and cons' of the half kitchen definition, the need for further definition refinement.

CDD Molloy Previsich stated, "If we are talking independent active living, and it is clear that the Planning Commission and the City Council think that the applications with kitchens should compete under RDCS, then it needs to be clear all other types that don't have full kitchens don't have to complete. Staff has been trying to clarify some cooking facilities, but not under RDCS."

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Commissioner Lyle reminded of the need to address now is the living quarters for the manager and co-manager. SP Linder spoke on the industrial park where the mini-storages have live-in managers. CDD Molloy Previsich reminded that Assisted Living Facilities are noticed as having one manager unit per 50 residents. Commissioner Mueller said that was tied to the initiative.

In determining the wishes of the Commissioners, staff reiterated the following from discussion:

- eliminating Congregate in lower definition (page 3/staff report)
- not defining “half kitchen”
- support for creating third definition: independent, active community / differentiate from congregate

Specific design changes to the four projects which had been discussed were noted.

The potential for set-asides with a competition just for the set-asides was discussed favorably.

CDD Molloy Previsich announced the matter will be returned to the Planning Commission (June 24) before it goes to the City Council.

Commissioner Lyle said, “I have one last thing to say: I’m appalled that the City may be giving up our very best industrial lands for these projects. The City needs to zone additional R-4 lands. ”

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, Chair Koepp-Baker declared the meeting adjourned at 11:00 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk